

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CHRISTOPHER T. DEDALIS,

Plaintiff,

v.

Case No. 15-CV-1543

BROWN COUNTY JAIL, et al.,

Defendants.

ORDER

Plaintiff Christopher Dedalis, who is representing himself, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 along with a petition to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. On January 15, 2016, I ordered plaintiff to forward to the Clerk of Court, by February 5, 2016, the sum of \$7.11 as an initial partial filing fee in this action. Plaintiff was advised that, upon payment of this fee, I would determine whether the action could proceed in forma pauperis. To date, plaintiff has not paid this partial filing fee. From this failure to pay the initial filing fee, I infer that plaintiff no longer wants to prosecute this action.

However, before dismissing a case for failure to pay the partial filing fee, a court must determine whether the prisoner is at fault for the non-payment. See *Thomas v. Butts*, 745 F.3d 309, 312-13 (7th Cir. 2014). A court may not dismiss the suit of a prisoner who has a lack of funds in the account. *Id.* at 312; see also § 1915(b)(4) ("In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee."). "But if the court finds that the prisoner is unable to pay the partial filing fee at the time of collection because he

intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action." Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

NOW, THEREFORE, IT IS ORDERED that plaintiff shall show cause why this case should not be dismissed for nonpayment of the initial partial filing fee.

IT IS FURTHER ORDERED that on or before **March 4, 2016**, plaintiff shall either pay the initial partial filing fee or provide the court with information regarding why the initial partial filing fee has not been paid. If plaintiff does not pay the initial partial filing fee or provide the requested information, I will dismiss the case based on plaintiff's failure to prosecute. See Civil Local Rule 41(c).

IT IS ALSO ORDERED that a copy of this order be sent to the warden of the institution where the inmate is confined.

Dated at Milwaukee, Wisconsin, this 13th day of February, 2016.

s/ Lynn Adelman

LYNN ADELMAN
District Judge